

In response to the request of the Revenue and Taxation Interim Committee, the Tax Commission recommends the committee consider the following issues in the long-term planning the committee conducts pursuant to HJR 10.

1. Disclosure of Tax Delinquency to DABC & DOPL

- DABC & DOPL seek delinquent taxpayer information as grounds to revoke certain licenses.
- Currently there is no statutory authority to disclose to DABC & DOPL whether a taxpayer is delinquent on state taxes.
- Does the Legislature want to provide the statutory authority for this disclosure?

2. Waiver/Reduction of Penalty Imposed under Section 59-2-307

- Section 59-2-307 imposes a penalty for failure to file a required signed statement of a person's real and personal property assessable by an assessor.
- This section provides that a penalty may not be waived or reduced "except pursuant to a procedure for the review and approval of reductions and waivers adopted by county ordinance, or by administrative rule. . ."
- The commission recommends the Legislature enact a statute to allow penalties imposed under this section to be waived or reduced by a county for reasonable cause.

3. Corporate Tax Unadjusted Income Definition

- Subsection 59-7-101(31) defines "Unadjusted income" as federal taxable income . . . before the net operating loss deduction and **special deductions for dividends received**.
- The phrase "special deductions for dividends received" is not defined but the commission has long interpreted this phrase to mean any deduction that is reported on federal Form 1120 Line 29(b).
- Due to 2017 federal tax reform there are now several new deductions reported on federal Form 1120 line 29(b).
- Some taxpayers believe that these new deductions are not "special deductions for dividends received" so they should not be excluded from unadjusted income. (i.e. deductions related to IRC Section 965 income and IRC Section 250 FDII deductions related to GILTI income)
- The commission requests that the Legislature define "special deductions for dividends received" and provide clarification on what deductions should be excluded from Utah unadjusted income.

4. Sales and Use Taxation of Fuels Used in Condominium and Short-term Home Rentals

- Section 59-12-103 provides a decreased sales tax rate for residential use of fuels and a sales tax exemption for the industrial use of fuels.
- Section 59-12-102 defines residential use as "the use in or around a home, apartment building, sleeping quarters, and similar facilities or accommodations."
- Section 59-12-102 defines commercial use as the use of gas, electricity, heat, coal, fuel oil, or other fuels that is neither industrial use nor residential use.
- Should condominiums in a rental pool or short-term home rental properties be considered residential or commercial use or a combination of both?

5. Harmonize Deadlines for Appeals Relating to Part-Year Residential Property

- Under Section 59-2-103.5, owners of part-year residential property have until November 30 of the current calendar year to file an application with the BOE for the primary residential exemption.
- However, Subsection 59-2-1004(3) requires that taxpayers appeal the valuation or the equalization of the taxpayer's real property to the BOE on or before September 15. The commission has rulemaking authority to authorize late filed appeals for property other than part-year residential property.
- It is unclear what appeal rights exist for owners of part-year residential property who file an application for primary residential exemption before November 30 but after the BOE appeal deadline of September 15.
- Does the Legislature want to harmonize the BOE appeal deadline in Subsection 59-2-1004(3) and the part-year residential property exemption application deadline in Section 59-2-103.5? If the dates are harmonized, the commission requests rulemaking authority to authorize late filed appeals for part-year residential property.
- Alternatively, if these dates cannot be harmonized, the commission requests that the Legislature provide clear statutory authority to reconvene the BOE after September 15 to allow appeals for part-year residential property.

6. Property Tax Relief Calculation when Ownership Changes After the Lien Date

- For purposes of property tax relief, the definition of "property taxes accrued" in Section 59-2-1202 only considers the residence owned by the claimant on the lien date (January 1st) regardless of whether the claimant owned the property for the entire year.
- However, the statute is unclear regarding what relief is available to a claimant if the property changes ownership at a point during the year subsequent to the lien date. This ambiguity in the statute has led to inconsistent application of relief for part-year owners among different counties.
- Does the Legislature want to create a statewide standard calculation for property tax relief applicable to property that changes ownership at a point during the year subsequent to the lien date?

7. Rule R884-24P-33 (Rule 33) - Refinery Pollution Control Equipment 50% Value Reduction

- Tax Commission Rule 33 sets forth the depreciation schedules used by counties to value business personal property for property tax purposes.
- Subsection (6)(g)(iv) of Rule 33 provides refineries a 50% reduction in the percent good value of the equipment they were required to install in order to come into compliance with pollution control standards adopted in 2002 by the EPA.
- In 2018, the commission received comments from Salt Lake and Davis counties requesting that Rule 33 be amended to remove the 50% value reduction for refinery pollution control equipment.
- The commission is reluctant to eliminate this long-standing tax benefit without first seeking input from the Legislature, industry, and other interested parties.
- In November of 2018 the commission sought legislative guidance on this issue by sending letters to the chairs of the Administrative Rules Review Committee, Sen.

Anderegg and Rep. Greene and the chairs of the Revenue and Taxation Interim Committee Sen. Stephenson and Rep. Eliason.

- On January 9, 2019, this issue was presented to the Administrative Rules Review Committee and the committee voted unanimously to eliminate the 50% value reduction from Rule 33 and this policy was later incorporated in 2019 SB 67.
- During the 2019 General Session, the Senate Government Operations and Political Subdivisions Committee favorably recommended SB 67 including the provision to eliminate the 50% value reduction from Rule 33. However, the Senate subsequently amended this provision out of SB 67.
- Salt Lake County currently has a case pending in district court to compel the commission to remove the 50% value reduction on the grounds that it is an unconstitutional property tax exemption.
- Does the Legislature wish to allow this issue to be settled by the courts or would the Legislature like to resolve this issue legislatively?
- If the Legislature seeks to resolve this legislatively, the commission recommends that the Legislature work with interested counties and industry representatives.